

gives employer and employee representatives an opportunity to accompany inspectors in order to aid inspections; notification of employees or their representatives when no compliance action is taken as a result of alleged violations, including informal review; protection of employees against discharge or discrimination in terms and conditions of employment by filing complaints with the Commissioner who will seek court action; adequate safeguards to protect trade secrets; provision for prompt notice to employers and employees of alleged violations of standards and abatement requirements through the issuance and posting of citations; a system of sanctions against employers for violations of standards; employer right of review and employee participation in review proceedings before the Commissioner with subsequent judicial review; and coverage of employees of the State and political subdivisions in a separate program supervised by the Commissioner in accordance with the requirements described in the North Carolina decision (38 FR 3041).

(c) Included in the plan is a statement of legal opinion that the law, which was supported by the Governor in accordance with the requirements of part 1902, meets the requirements of the Occupational Safety and Health Act of 1970 and is consistent with the Constitution and laws of Maryland. The plan sets out goals and provides a timetable for bringing it into full conformity with part 1902 at the end of three years after the commencement of operations under the plan. Personnel will be employed under the existing State merit system with the revisions in qualifications as stated in supplements to the plan, and the voluntary compliance program for on-site consultation meets the conditions set forth in the issues discussed in the Washington decision (38 FR 2421).

(d) The plan includes the following documents as of the date of approval.

(1) The plan document in two volumes.

(2) Maryland Occupational Safety and Health Act of 1973, effective July 1, 1973.

(3) "A Program for Control of Occupational Health Hazards in Maryland"

by Johns Hopkins University Department of Environmental Medicine.

(4) Letters from the Division of Labor and Industry dated February 9, 1973; March 6, 1973; March 22, 1973; May 2, 1973 and May 21, 1973.

(5) Maryland's Administrative Procedure Act Article 41 sections 244 *et seq.*

[38 FR 17837, July 5, 1973, as amended at 50 FR 29219, July 18, 1985]

§ 1952.211 Developmental schedule.

(a) Occupational health study accepted and implementation begun July, 1973;

(b) Compliance Manual developed by July, 1973;

(c) Management Information System, December, 1975;

(d) Training in compliance procedures by August, 1973;

(e) Promulgation of standard-setting procedures, August, 1973;

(f) Inspection and enforcement program, except as provided in paragraph (k), in September, 1973;

(g) Staff of hearing examiners and review procedures set up in September, 1973;

(h) Variance procedures and emergency temporary standard-setting procedures promulgated October, 1973;

(i) Review of appeal procedures to see if it should be continued or modified, July, 1974;

(j) Review of job qualifications within one year of plan approval;

(k) Inspection and enforcement of agriculture standards by December, 1974;

(l) Fully operational occupational health program, July, 1975;

(m) Fully implemented public employees program, December, 1975;

[38 FR 17837, July 5, 1973, as amended at 41 FR 45564, Oct. 15, 1976. Redesignated at 50 FR 29219, July 18, 1985]

§ 1952.212 Completion of developmental steps and certification.

(a) In accordance with part 1953 of this chapter, the Maryland occupational safety and health standards were approved by OSHA on October 3, 1974.

(b) In accordance with the requirements of 29 CFR 1952.10, the Maryland State poster was approved by the Assistant Secretary on June 6, 1975.

(c) In accordance with the commitment expressed in § 1952.213(l), the

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State of Maryland developed and implemented an occupational health plan by December 31, 1975.

(d) In accordance with the commitment expressed in § 1952.213(n), the designee developed a fully operational Management Information System by May 1, 1975.

(e) In accordance with 29 CFR 1952.213(d), training of Maryland compliance personnel in compliance procedure was completed by December 31, 1975.

(f) In accordance with 29 CFR 1952.213(f), the Maryland inspection and enforcement program was implemented by September 1973.

(g) In accordance with 29 CFR 1952.213(j), review of the appeal procedures to see if they should be continued or modified was conducted by the State by May 1975.

(h) In accordance with 29 CFR 1952.213(b), Maryland completed development of a Compliance Manual.

(i) In accordance with 29 CFR 1952.213(e), the State has promulgated acceptable standard-setting procedures.

(j) In accordance with 29 CFR 1952.213(h), Maryland promulgated acceptable variance procedures and emergency temporary standard-setting procedures.

(k) In accordance with 29 CFR 1952.213(j), review of the job qualifications of State personnel was conducted by the State.

(l) In accordance with 29 CFR 1952.213(m), the State of Maryland has developed and implemented a safety and health program for public employees.

(m) In accordance with 29 CFR 1952.213(a), the State submitted an occupational health study, and the State's occupational health plan is being implemented.

(n) In accordance with 29 CFR 1952.213(g), the State established a staff of hearing examiners and review procedures.

(o) In accordance with 29 CFR 1952.213(k), agricultural standards are being enforced by the Maryland Department of Labor and Industry.

(p) In accordance with § 1902.34 of this chapter, the Maryland occupational safety and health plan was certified ef-

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fective February 15, 1980, as having completed all developmental steps specified in the plan as approved on July 5, 1973, on or before August 31, 1976. This certification attests to structural completion, but does not render judgment on adequacy of performance.

[40 FR 25207, June 13, 1975, as amended at 41 FR 45564, Oct. 15, 1976; 42 FR 10988, Feb. 25, 1977; 44 FR 28326, 28327, May 15, 1979; 45 FR 10337, Feb. 15, 1980. Redesignated at 50 FR 29219, July 18, 1985, as amended at 67 FR 60129, Sept. 25, 2002]

§ 1952.213 Compliance staffing benchmarks.

Under the terms of the 1978 Court Order in *AFL-CIO v. Marshall* compliance staffing levels (benchmarks) necessary for a "fully effective" enforcement program were required to be established for each State operating an approved State plan. In September 1984 Maryland, in conjunction with OSHA, completed a reassessment of the levels initially established in 1980 and proposed revised compliance staffing benchmarks of 36 safety and 18 health compliance officers. After opportunity for public comment and service on the AFL-CIO, the Assistant Secretary approved these revised staffing requirements on July 18, 1985.

[50 FR 29219, July 18, 1985]

§ 1952.214 Final approval determination.

(a) In accordance with section 18(e) of the Act and procedures in 29 CFR part 1902, and after determination that the State met the "fully effective" compliance staffing benchmarks as revised in 1984 in response to a Court Order in *AFL-CIO v. Marshall* (CA 74-406), and was satisfactorily providing reports to OSHA through participation in the Federal-State Unified Management Information System, the Assistant Secretary evaluated actual operations under the Maryland State plan for a period of at least one year following certification of completion of developmental steps (45 FR 10335). Based on the 18(e) Evaluation Report for the period of October 1982 through March 1984, and after opportunity for public comment, the Assistant Secretary determined that in operation the State of Maryland's occupational safety and